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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/506,856

09/02/2004

John D Bambara

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DALY, CROWLEY, MOFFORD & DURKEE, LLP
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EXAMINER

CHANG, VICTOR S

ART UNIT

PAPER NUMBER

1771

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

04/10/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/506,856

Applicant(s)

BAMBARA ET AL.

Examiner

Victor S. Chang

Art Unit

1771

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 March 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) 2,4-6,8,11,16,17,19,21-23 and 27-29 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3,7,9,10,12-15,18 and 20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 September 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

DETAILED ACTION

Election/Restrictions

1. Applicant's election of Group I (claims 1-23) and Species A.b, B.b, C.a and Da in the reply filed on 3/8/2007 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)). In summary, elected claims are 1, 3, 7, 9, 10, 12-15, 18 and 20. Claims 2, 4-6, 8, 11, 16, 17, 19, 21-23 and 27-29 are withdrawn.

Claim Objections

2. Claim 1 is objected to because of the following informalities: in lines 1-4, the product-by-process limitation: "formed from ... said preformed core composition" appears unnecessary, because the structure elements are recited in the following lines 5-9. Further, the abovementioned process limitation improperly includes terms lacking antecedent basis. Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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4. Claims 1, 3, 7, 9, 10, 12-15, 18 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Park et al. [US 5149579].

Park's invention relates to extruded foam sheets of a mixture of polypropylene (PP) resin and additives [col. 7, lines 52-59]. A polypropylene foam sheet may be provided with a substantially non-cellular coextruded polypropylene outer layer or skin [col. 8, lines 25-43]. A multilayer foam sheet comprises at least one layer of the polypropylene foam sheet and at least one coextruded functional layer, e.g., a water vapor or gas barrier, for packaging applications where an extended shelf-life is desirable. Suitable polymers for the functional layer include ethylene-vinyl alcohol, vinylidene chloride copolymers and polyamides [col. 8, lines 44-61]. Nucleating agents (additives) include a mixture of citric acid and sodium bicarbonate, talc and titanium dioxide [col. 10, lines 14-16].

Park anticipates all the features as claimed.

5. Claims 1, 3, 10, 12-15, 18 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Park et al. [US 4701370].

Park's invention [abstract; col. 8, lines 29-40; col. 10, lines 6-31; Example 1] relates a coextruded flat foamed core layer and void-free (solid) skin layers of polypropylene. Additives, such as fillers, antioxidants, pigments, antistatic agents, slip agents, antitack agents, and the like, can be incorporated in the usual amounts in one or more of the layers constituting the laminate film. Exemplary additives include titanium dioxide-coated mica.

Park anticipates all the features as claimed.


Conclusion

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6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor S. Chang whose telephone number is 571-272-1474. The examiner can normally be reached on 8:30 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel H. Morris can be reached on 571-272-1478. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Victor S Chang
Examiner
Art Unit 1771

4/9/2007